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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,800	12/20/2004	Christopher Ledger	102792-383	3625
27389 7590 07/02/2009 NORRIS, MCLAUGHLIN & MARCUS 875 THIRD AVE 18TH FLOOR NEW YORK, NY 10022			EXAMINER WOOD, ELLEN S	
			ART UNIT 1794	PAPER NUMBER
			MAIL DATE 07/02/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/518,800

Applicant(s)

LEDGER ET AL.

Examiner

ELLEN S. WOOD

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/02)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/14/2009 has been entered.
2. Applicant's arguments, filed 04/14/2009, with respect to claims 1-10 have been fully considered and are persuasive. The rejection of claims 1-10 under 35 U.S.C 103(a) as being unpatentable in view of Ghodoussi et al. (US 6,669,763) in view of Leacock (EP 0392316) has been withdrawn.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 7 provides for the use of a wipe according to claim 1 for cleaning a surface, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claim 7 is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neumiller (US 2003/0109395) in view of Ghodoussi et al. (US 6,669,763, hereinafter "Ghodoussi") in further view of Leacock (EP 0392316).

Neumiller discloses an acidic cleaning formulation which contains a surface modification agent selected from the group consisting of a hydrolyzed trialkoxysilane or a hydrolyzable quaternary silane in a stabilized formulation [0021]. The cleaning formulation forms a protective barrier which advantageously inhibits the deposition of soils and grease on the treated surface [0021]. The formulation is applied to clean the surface of a hard surface [0002]. The amount of the hydrolyzable trialkoxysilane used in the aqueous emulsion is generally in the range from about 0.00001 to about 10.0 percent by weight [0024]. Thus, the amount of silicone compounds fall within the range

claimed by applicant. In the case where the claimed ranges "overlap or lie inside ranges disclosed by the prior art" a prima facie case of obviousness exists. MPEP 2144.05. The formulation contains a surfactant such as capryloamphopropionate and compositions that contain a betaine with a cocoamide [0037]. These were listed in applicant's specifications as anti-static compounds (pg. 5). The surfactants will be present in the formulation in an amount from 0.00001 to about 5 percent by weight [0042]. The formulation of this invention contains at least one alcohol having 1 to 12 carbon atoms that are preferably selected from mono, di and trihydric alcohols [0043]. The alcohols range from about 0.00001 to about 5.0 percent by weight of the formulation [0043]. Deionized water is the remaining component of the formulation [0057].

In the case where the claimed ranges "overlap or lie inside ranges disclosed by the prior art" a prima facie case of obviousness exists. MPEP 2144.05.

Neumiller is silent with the use of a wax in the formulation for cleaning a surface and a moist wipe.

Ghodoussi discloses a composition that can be applied to multiple surfaces including wood (col. 3 lines 11-14). The composition comprises at least one wax, at least one surfactant, and between 40% to 99.8% water (col. 4 lines 58-61). The wax component can be paraffin wax (col. 6 lines 33-36). The total wax present can vary from 0.01% to 50% of the total weight of the composition (col. 5 lines 66-67), but preferably from 0.01% to 10% of the total weight of the composition (col. 6 lines 1-2). The emulsion contains levels of silicon in the levels of 0% to 5% of the total weight of

the composition (col. 6 lines 14-20). Ghodoussi discloses that the nonionic surfactants can be alkyl alcohols having 4 to 20 carbon atoms (col. 8 lines 1-7).

Ghodoussi is silent with regards to the cleaning composition being disposed on a sheet material.

Leacock discloses a wiper for one step polishing and protecting of a hard surface such as wood (abstract). The wipe comprises a non-woven substrate impregnated with a liquid polish composition (abstract). The wipe comprises a suitable non-woven material having good wet strength and fluid absorbency (pg. 3 line 24). The amount of liquid composition loaded onto the wipe is within the range of instant applicant (examples 1-6). The composition is loaded onto the substrate by procedures well known in the art such as by spraying or immersion (pg 6 lines 32-36). The sheets should be packaged in a manner, which will maintain them in a moist condition. They may be individually packaged in moisture impervious envelopes or packaged in bulk form in canisters provided with suitable dispensing openings (pg. lines 14-19). Leacock gives reference to U.S. Pat. No. 4,017,002, which discloses an airtight container for an elongated web of perforated wet impregnated tissue-like material, the web being free-flowing, having a minimum friction within the container and provides a removable cap adapted to form a tight fit with the container (pg. 6 line 19).

It would be obvious to one of ordinary skill in the art at the time of the invention to use the paraffin wax of Ghodoussi with the cleaning formulation of Neumiller, because the wax forms a water repellant film (Ghodoussi col. 6 lines 32-33), which would aid in a protective barrier for a hard surface sought after in Neumiller.

It would be obvious to one of ordinary skill in the art at the time of the invention that a cleaning wipe could be formed using the same impregnation techniques but with various types of cleaning compositions. Therefore, it would be obvious to combine the cleaning composition of the combination of Neumiller and Ghodoussi with the method of production of Leacock to form a wipe that provides a layer that is water-resistant to reduce the formation of water stains on wood surfaces in an affordable and convenient fashion such as a disposable wet wipe (Ghodoussi col. 3 lines 6-10).

The examiner notes, the transitional phrase "consisting essentially of" limits the scope of a claim to the specified materials or steps and those that do not materially affect the basic and novel characteristics of the claimed invention. For the purposes of searching for and applying prior art under 35 U.S.C. 102 and 103, absent a clear indication in the specification or claims of what the basic and novel characteristics actually are, "consisting essentially of" will be construed as equivalent to "comprising." If Applicants contend that additional materials in the prior art are excluded by the recitation of "consisting essentially of," Applicants have the burden of showing that the introduction of additional components would materially change the characteristics of Applicants' invention.

Response to Arguments

7. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

8. The examiner notes, Ghodoussi does not disclose all the features of the present claimed invention, Ghodoussi is used as teaching reference, and therefore, it is not necessary for this secondary reference to contain all the features of the presently claimed invention, *In re Nievelt*, 482 F.2d 965, 179 USPQ 224, 226 (CCPA 1973), *In re Keller* 624 F.2d 413, 208 USPQ 871, 881 (CCPA 1981). Rather this reference teaches a certain concept, namely, the use of a wax in a cleaning composition for wood surfaces, in order to (motivation) and in combination with the primary reference, discloses the presently claimed invention.

9. The examiner notes, Leacock does not disclose all the features of the present claimed invention, Leacock is used as teaching reference, and therefore, it is not necessary for this secondary reference to contain all the features of the presently claimed invention, *In re Nievelt*, 482 F.2d 965, 179 USPQ 224, 226 (CCPA 1973), *In re Keller* 624 F.2d 413, 208 USPQ 871, 881 (CCPA 1981). Rather this reference teaches a certain concept, namely, the use of a cleaning composition for wood surfaces in the form of a moist wipe, in order to (motivation) and in combination with the primary reference, discloses the presently claimed invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELLEN S. WOOD whose telephone number is (571)270-3450. The examiner can normally be reached on M-F 730-5 with every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on (571)272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Rena L. Dye/
Supervisory Patent Examiner, Art Unit 1794

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